

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

THOMAS INDUSTRIAL NETWORK, §  
INC., and PRODUCT INFORMATION §  
NETWORK, INC. §

V.

PEASE MEDIA, LTD. d/b/a TOP SPOT	\$
INTERNET MARKETING SOLUTIONS,	\$
RICK PEASE MEDIA, LLC, RICHARD	\$
PEASE, JEFF MONTGOMERY, DAVID	\$
UNDERWOOD and ANITA PEREZ	\$

CAUSE NO.

JURY

## NOTICE OF REMOVAL

Defendants PEASE MEDIA, LTD d/b/a TOP SPOT INTERNET MARKETING SOLUTIONS, RICK PEASE MEDIA, LLC, RICHARD PEASE, JEFF MONTGOMERY, DAVID UNDERWOOD and ANITA PEREZ (collectively referred to as “Defendants”) file this Notice of Removal and state as follows:

1. Defendants have been sued in a civil action styled Cause No. 2006-14603; *Thomas Industrial Network, Inc., et al v. Pease Media, Ltd., et al*, in the 125<sup>th</sup> Judicial District Court of Harris County, Texas (the “Texas State Court Action”).

2. The Texas State Court Action follows an identical suit filed by the same Plaintiffs against the same Defendants making the same claims in New York State Court back in 2005.

The Texas State Court Action was filed on March 3, 2006. A true and correct copy of Plaintiff's Original Petition is attached hereto as Exhibit A.

3. Presumably because the New York State Court had yet to decide Defendants' plea to the jurisdiction (and has still yet to decide as of the filing of this Notice), Defendants did not serve Plaintiffs until on or about September 28, 2006. The return of process in the Texas State Court Action is attached hereto as Exhibit B. Defendants have not filed an Answer in the Texas State Court Action. A true and correct copy of the Docket Sheet is attached hereto as Exhibit C.<sup>1</sup>

4. Pursuant to 28 U.S.C. § 1332, diversity jurisdiction is proper. Therefore, all Defendants file this notice of removal pursuant to 28 U.S.C. § 1441, *et seq.* to remove this action from the 125<sup>th</sup> Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. This notice is filed within 30 days of receipt of the citation in Texas State Court Action and is timely filed under 28 U.S.C. § 1446(b).

5. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every defendant is now and was at the time the action was commenced diverse in citizenship from every plaintiff. No plaintiff is or was at the time the suit was commenced a citizen of Texas while all of the Defendants are citizens of Texas.

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<sup>1</sup>Pursuant to Local Rule 81, an index of matters being filed accompanies this motion along with a list of all counsel of record, including addresses, telephone numbers and parties represented. No orders have been signed by the judge in the Texas State Court Action.

6. According to Plaintiffs' Original Petition in the Texas State Court Action, Plaintiff Thomas Industrial Network, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, and with its principle place of business in New York, New York.

7. According to Plaintiffs' Original Petition in the Texas State Court Action, Plaintiff Product Information Network, Inc. is a corporation duly organized and existing under the laws of the State of Delaware, and with its principle place of business in New York, New York.

8. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant Pease Media, Ltd is a domestic limited partnership in the State of Texas.

9. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant Rick Pease Media, L.L.C. is a limited liability company in the State of Texas.

10. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant Pease Media, Ltd is a domestic limited partnership organized under the laws of the State of Texas.

11. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant Richard Pease is a resident of the state of Texas.

12. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant Jeff Montgomery is a resident of the state of Texas.

13. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant David Underwood is a resident of the state of Texas.

14. According to Plaintiffs' Original Petition in the Texas State Court Action, Defendant Anita Perez is a resident of the state of Texas.

Plaintiffs' Original Petition expressly requests damages at least in the amount of \$225,384.10. This request is sufficient on its face to establish the amount in controversy exceeds \$75,000, exclusive of interest and costs, as required by 28 U.S.C. § 1332(a).

In accordance with 28 U.S.C. § 1446(d), written notice of the filing of this notice of removal promptly will be served on all adverse parties, and a copy of this notice of removal promptly will be filed with the Clerk of the District Court of Harris County, Texas.

FOR THESE REASONS, All Defendants join together and pursuant to these statutes and in confirmance with the requirements set forth in 28 U.S.C. § 1446, remove this action for trial from the 125<sup>th</sup> Judicial District Court of Harris County, Texas to this Court on this 23<sup>rd</sup> day of October, 2006.

Respectfully submitted,

By: \_\_\_\_\_



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**CERTIFICATE OF SERVICE**

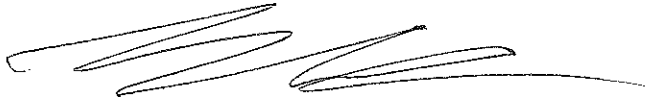
This pleading was served in compliance with Rule 5 of the Federal Rules of Civil Procedure on October 23, 2006, to the following counsel of record:

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